

**§ 282.32**

**46 CFR Ch. II (10–1–06 Edition)**

**Reduced Crew Period**

Vessel	Reduced crew dates		No. of reduced crew days (a)	No. of crew reduced	Man-days	Man-day amount	Reduced crew reduction
	From	To					
.....	.....	.....	×	=	×	\$=	\$
.....	.....	.....	×	=	×	\$=	\$
.....	.....	.....	×	=	×	\$=	\$
.....	.....	.....	×	=	×	\$=	\$
Total Reduced Crew Reduction (Enter on Schedule A).							

(a) If licensed crew, indicate (a), (b) If unlicensed crew, include (b).

(2) A notarized affidavit as shown below shall be signed by an official of the subsidized operator who is familiar with the ODSA, these regulations, the operation of the subsidized vessel and the accounts, books, records, and disbursements of the subsidized operator relating to such operation:

**AFFIDAVIT**

State of \_\_\_\_\_  
City of \_\_\_\_\_  
County/Parish of \_\_\_\_\_

I, \_\_\_\_\_, being duly sworn, depose and say, that I am (title) of the \_\_\_\_\_ (herein referred to as the "Operator"), and as such am familiar with (a) provisions of the Operating-Differential Subsidy Agreement, Contract No. \_\_\_\_\_, dated as of \_\_\_\_\_, as amended, to which the Operator is a party; and (b) the regulations governing the payment of operating-differential subsidy for liner vessels, PART 282, Title 46, CFR; and (c) the operation of the vessels covered by said Agreement and regulations; and (d) the accounts, books, records, and disbursements of the Operator relating to such operation.

Referring to the public voucher dated \_\_\_\_\_, covering voyage days allowed for subsidy during the periods commencing \_\_\_\_\_ and ending \_\_\_\_\_, and attached, submitted by said Operator concurrent herewith for a payment on account in the sum of \_\_\_\_\_, under said Agreement, I further depose and say that, to the best of my knowledge and belief, the Operator has fully complied with the terms and conditions of said Agreement and regulations, applicable orders, rulings and provisions of the Merchant Marine Act, 1936, as amended, and is entitled, under the provisions of said Agreement and regulations, and rulings applicable thereof, to the amount of the payment on account requested; and further depose and say that the vessels named in the attached schedules were in authorized service for the vessel operating days on which the payment is requested and has not included in the calculation of the amount of subsidy claimed in the attached voucher any costs of a character that the Maritime Administration, or Secretary of Transportation acting by and through the Maritime Subsidy Board or any predecessor or successor, had advised the Operator to be ineligible to be so included, or any costs collectible from insurance, or from any other source.

Payment by the Maritime Administration of all or part of the amount claimed herein shall not be construed as approval of the correctness of the amount stated to have been due, nor a waiver of any right of remedy the Maritime Administration, or Secretary of Transportation, acting by and through the Maritime Subsidy Board, or any predecessor or successor, may have under the terms of said Agreement, or otherwise.

I further depose and say that this affidavit is made for and on behalf and at the direction of the Operator for the purpose of inducing the Maritime Administration to make a payment pursuant to the provisions of the aforesaid Operating-Differential Subsidy Agreement, as amended.

Subscribed and sworn to before me, a Notary Public, in and for the aforesaid County and State, this \_\_\_\_\_ day of \_\_\_\_\_, My commission expires \_\_\_\_\_  
Notary Public \_\_\_\_\_

(3) The subsidized operator shall furnish its own supply of supporting schedules and affidavit.

**§ 282.32 Appeal procedures.**

(a) *Appeals of annual or special audits.* An operator who disagrees with the findings, interpretations or decisions in connection with audit reports of the Office of the Inspector General and who cannot settle said differences by negotiation with the Contracting Officer may submit an appeal to the Maritime

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Administrator from such findings, interpretations or decisions in accordance with part 205 of this chapter.

(b) *Appeals of administrative determinations*—(1) *Policy*. An operator who disagrees with the findings, interpretations or decisions of the Contracting Officer with respect to the administration of this part may submit an appeal from such findings, interpretations or decisions as follows:

(i) Appeals shall be made in writing to the Secretary, Maritime Subsidy Board, Maritime Administration, within 60 days following the date of the document notifying the operator of the administrative determination of the Contracting Officer. In the appeal to the Secretary, the operator shall indicate whether or not a hearing is desired.

(ii) MARAD will notify the appellant in writing if a hearing is to be held and whether the operator is required to submit additional facts for consideration in connection with the appeal.

(iii) When a decision has been rendered, the Board shall notify the appellant in writing.

(2) *Appeal to the Secretary of Transportation*. An operator who disagrees with the Board may appeal such findings and determinations by filing with the Secretary of Transportation, a written petition for review of the Board's action. The petition shall be filed in accordance with provisions of the Department of Transportation pertaining to Secretarial review.

(3) *Hearings*. MARAD shall follow the Rules of Practice and Procedure (46 CFR part 201, subpart M) for hearings granted under 46 U.S.C. 1176 and 46 CFR 282.32.

## PART 283—DIVIDEND POLICY FOR OPERATORS RECEIVING OPERATING-DIFFERENTIAL SUBSIDY

Sec.

283.1 Purpose.

283.2 Definitions.

283.3 Dividend policy criteria.

283.4 Alternate standards.

283.5 Notification and reporting requirements.

AUTHORITY: Sec. 204(b) Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)); Reorganization Plans No. 21 of 1950 (64 Stat. 1273) and No. 7 of 1961 (75 Stat. 840), as amended by Pub. L. 91-469 (84 Stat. 1026);

Dept. of Commerce Organization Order 10-8 (38 FR 19707, July 23, 1973).

SOURCE: 45 FR 37445, June 3, 1980, unless otherwise noted.

### § 283.1 Purpose.

(a) The rules of this part establish requirements for the declaration and payment of cash dividends by operators receiving operating-differential subsidy (ODS) under Title VI of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1101 et seq.) (Act). This part shall be applicable immediately unless otherwise provided for in the operators' operating-differential subsidy agreement (ODSA).

(b) One of the purposes of the Act is to foster the development and encourage the maintenance of the United States Merchant Marine. Subsidized operators are required to maintain the financial ability to assure adequate and timely reinvestment in the merchant marine. The policy contained herein takes into consideration the operators' contractual obligations to construct and acquire vessels, retire debt obligations secured by ship mortgages and maintain adequate working capital. However, this policy also takes into consideration the operators' need to attract new capital to the industry by paying dividends which are appropriate in light of the operators' earnings and long-range financial position.

### § 283.2 Definitions.

(a) *Long-Term Debt* means, as of any date, the total notes, bonds, debentures, equipment obligations and other evidence of indebtedness that would be included in Long-Term Debt in accordance with generally accepted accounting principles, less the balance of escrow fund deposits attributable to the principal of obligations guaranteed pursuant to Title XI of the Act, where deposits are required in accordance with § 298.33. Capitalized Lease Obligations shall be included, but deferred income taxes shall not be included.

(b) *Capitalized Lease Obligations* means, as of any date, an amount (excluding amounts already included in Long-Term Debt) equal to the sum of:

(1) The present value of all capital